
(2009) 06 AHC CK 0120
In the Allahabad High Court

Smt. Kaushal and Another	Vs	APPELLANT
State of UP and Others		RESPONDENT

Date of Decision : 01-06-2009

Acts Referred:

Citation : (2009) 06 AHC CK 0120

Hon'ble Judges : Sunil Ambwani, J;D.K. Arora, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. On the averments made in the writ petition, we are satisfied that the matter is urgent to be entertained in the summer vacations.

2. Heard learned Counsel for the petitioners. Learned standing counsel appears for respondent Nos. 1, 2, 3 & 4. The respondent No. 5 & 6 are the father and mother of petitioner No. 1 and respondent Nos. 7 and 8 are brothers of petitioner No. 1.

3. By this writ petition the petitioners, claiming to be of major and of marriageable age and entered into marriage with their consent, have prayed for directions to the respondents as well as their relatives arrayed as private respondent and the police not to take any action against the petitioners. They have further prayed that the police should not arrest them during the pendency of the writ petition.

4. Paragraphs 11, and 19 of the writ petition, allegedly giving cause of action to the petitioners, are quoted as below:

11. That the respondent No. 5 to 8 are not ready to accept the love and also the marriage of both the petitioners at an cost. These respondents are interested to remove the petitioner No. 1 from the company of her husband i.e. the petitioner No. 2 and also interest to solemnized the marriage of the petitioner No. 1 with any person of any without considering the wishes of the petitioner No. 1 and for

which they are making attempt.

19. That the respondent No. 5 is not satisfied with the marriage of the petitioner No. 1 with the petitioner No. 2. He has threatened to the petitioner No. 2 and his family to lodge the FIR with serious allegation against them. He is in search of them to kill them. The family of the petitioner No. 2 is being harassed in all manner by them themselves and also with the help of police. They visited to the house of the petitioner No. 2 to kill the petitioners with the Gunda and anti social elements but fortunately the petitioner were not presented at them time otherwise the petitioner must have been kill by them..

5. The petitioners have relied upon Lata Singh Vs. State of U.P. and Another, in support of their submission, that there is no law prohibiting inter-caste marriage or marriage between the boy and the girl of a different religions. At best the family may socially avoid them, but that they cannot be subjected to harassment, torture and intervention in their life by police.

6. In Lata Singh's case a first information report was lodged against the boy and the girl and that the brothers of Lata Singh had beaten up all the family members, cut away the crops and locked the boy's shop. Lata Singh had appeared before the State Women Commission in Rajasthan and had also recorded her statement before the Magistrate. The Supreme Court had, in such circumstances, quashed the prosecution and had directed that the parents of the boy and the girl and the police shall not interfere in their married life.

7. If the petitioners are of marriageable age and have married with their consent, there is no reason as to why the police would register a criminal case and to prosecute them.

8. The writ petition is based only upon apprehensions. From the pleadings and the arguments of the counsel of the petitioner, we do not find that the apprehension is real and apparent. There are no specific allegations with regard to harassment and torture. The writ petition appears to have been filed only for the purpose of getting the marriage legally approved by the Court. The petitioners have not made out any case which may give them cause of action to file the writ petition for protection from harassment by the private respondents and the police. On their own admission no first information report has been registered, so far.

9. Learned Counsel for the petitioners submits that the Court may give the petitioners liberty to record their statements before the Magistrate. We do not find that the petitioners require any permission in that regard. If a criminal case is registered, it will be open to the petitioners to record their statements before the Magistrate, as per provisions contained in the Criminal Procedure Code.

10. The writ petition is dismissed with these observations.